IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

REVIEW PETITION NO.107 OF 2001
IN
WRIT PETITION NO.6880 OF 1998
WITH
REVIEW PETITION NOS.108/01, 109/01, 110/01, 149/01, 2/02, 3/02, 5/02, 21/02 AND 22/02

Shri Shivaji Bhikaji Avhad. ...Petitioner.
Vs.
The State of Maharashtra & Ors. ...Respondents.
....
R. P. No.108/2001 :

Sharad Krishna Ranashevare & Ors. ... Petitioners.
Vs.
State of Maharashtra & Ors. ... Respondents.
.....
R. P. No. 109/2001:

Subhash Appasaheb Naik & Ors. ...Petitioners.
Vs.
State of Maharashtra & Ors. ...Respondents.
.....
R. P. No. 110/2001:

Arjun Jaywant Girme. ...Petitioner
Vs.
State of Maharashtra & Ors. ...Respondents.
.....

R. P. No. 149/2001:

Vijay Janardhan Dhake & Ors. ....
Petitioners.

Vs.
State of Maharashtra & Ors. ...Respondents.
R. P. No.2 of 2002:

Ramesh Ramchandra Dukhande. ...Petitioner.
Vs.
State of Maharashtra & Ors. ...Respondents.
....
R. P. No.3 of 2002:

Jayandrath Yeshwant Tambe & Ors. ...Petitioners.
Vs.
State of Maharashtra & Ors. ...Respondents.
.....
R. P. No.5 of 2002:

Shrikant Narayan Naik. ...Petitioner.
Vs.
State of Maharashtra & Ors. ...Respondents.
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R.P. No.21of 2002:

Pandurang Sitaram Mohurle. ...Petitioner.
Vs.
State of Maharashtra & Ors. ...Respondents.
.....
R. P. No.22 of 2002:

Vinod Laxmanrao Shinde. ...Petitioner.
Vs.
State of Maharashtra & Ors. ...Respondents.
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Mr. V. A. Gangal, Sr.Advocate with Mr. H. M. Deshpande and Mr. Ulhas Naik for the Petitioners.
Mr. N. P. Deshpande, AGP for the Respondents.
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**CORAM : A. P. SHAH, J. AND**

**DR.D.Y.CHANDRACHUD, J.**

**October 17, 2005.**

**P.C.**

The Review Petitioners seek the recall of the judgment of this Court dated 28th April 2000/27th July 2000 and consequential directions that the Respondents consider the cases of the Review Petitioners on the basis of the aggregate marks secured in the written and oral examinations for the posts of Sub Inspector of Police. An affidavit in reply has been filed on behalf of the Respondents to oppose the Review Petitions. For the reasons which we hereafter elucidate, we are of the view that there is a considerable degree of substance in the objections filed on behalf of the State and we accordingly are of the view that the Review Petitions should be dismissed.

All the Petitioners in question appeared for the departmental examinations for selection to the post of Sub Inspector of Police for batches between 1986 and 1990 and were initially declared as having failed in the interviews. Petitions were

filed before this Court and in the Administrative Tribunal and it has been stated in the reply that in compliance with the orders passed by this Court, 421 Policemen were again interviewed in the months of October/November 1998. 111 candidates were declared successful and they were sent for the PSI Training Course at Nasik. Candidates who were unsuccessful in the fresh interviews, once again filed Writ Petitions before this Court. In its judgment dated 28th April 2000, this Court directed that the benefit of one percent grace marks should be granted to all eligible candidates in accordance with the Government Resolution dated 22nd July 1999. Revised results were prepared and it has been stated that 92 candidates out of 310 who received the benefit of the provision of one percent grace marks were declared as having passed and were sent for the Training Course.

Until 1994, the departmental examination for selection to the post of PSI was conducted by the Police Department in accordance with a Government Resolution dated 3rd October 1979. The Petitioners who had appeared in the examinations for

the batches between 1986 and 1990 were unable to secure a minimum of 40% marks in the interview test in order to qualify for the training course. In the affidavit in reply, the attention of this Court has been drawn to the fact that the requirement of a minimum of 40% passing marks in the interview was affirmed by the Supreme Court on 12th May 1993 in Civil Appeal No.2828 of 1989. The State Government entrusted the conduct of the departmental examination to the Maharashtra Public Service Commission by a G.R. Dated 5th July 1994. By a G.R. Dated 21st April 1998, a procedure was laid down for the conduct of the said examination under the aegies of the M. P. S. C. In the circumstances, it has been submitted in the reply that upon the decision that was taken in the G.R. dated 5th July 1994 that the departmental examination for selection to the post of PSI would be conducted by MPSC instead of the Department, the relevant rules and regulations of the MPSC were applicable and were applied to Policemen who appeared for the said examinations after fulfilling criteria laid down in the G.R. dated 5th July 1994. The Rules framed by the MPSC were applicable to candidates who appeared

through MPSC. The Petitioners on the other hand, had appeared for departmental examination conducted directly by the Department during 1986 to 1990 much prior to the G. R. of 5th July 1994. Finally, it has been submitted in the affidavit filed by the State that in the first round of litigation, the Petitioners were granted a fresh chance of an interview. In the second round of litigation, unsuccessful candidates moved this Court and directions were issued to grant the benefit of one percent grace marks which was accordingly granted. Now it has been submitted that in the third round, the unsuccessful candidates seek to challenge the basic pattern which has been applied to all the candidates by contending that an aggregate system of marks should be adopted.

We are of the view that there is substance in the submissions urged on behalf of the Respondents. The Review Petitioners have appeared for the departmental examinations held for the batches between 1986 and 1990. The relief which they now seek of a consideration of their cases on the basis of the aggregate marks obtained in the written and oral examinations

cannot be granted since the evaluation of candidates at the aforesaid departmental examinations was not conducted on that basis. A separate set of standards cannot be applied to the Review Petitioners in respect of the same examinations. That would be impermissible. The relief which has been sought by the Review Petitioners now, if granted, will virtually negate the very basis of the evaluation in the aforesaid departmental examinations. As we have noted earlier, candidates who have been found to be successful at those examinations including after the reinterview in the first instance and after the grant of grace marks in the second instance, have already been sent for training for the PSI course. The relief that has been sought will disturb the very foundation of the examination. For the reasons which we have already indicated, we find no lawful basis in the claim to such relief. In the circumstances, we also do not find any merit in the Review Petitions. The Review Petitions shall accordingly stand dismissed.

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